



**CALIFORNIA
HIGH-SPEED RAIL
AUTHORITY**

BRIEFING: August 2, 2012, BOARD MEETING AGENDA ITEM #3

TO: Dan Richard and Authority Board Members

FROM: Jeff Morales, Chief Executive Officer

DATE: July 25, 2012

RE: Amendment to the Small and Disadvantaged Business Enterprise Program Plan

Discussion:

Agenda Item 3 makes two (2) requests of the Board:

- 1) Approve the inclusion of a 10 percent Disadvantaged Business Enterprise (DBE) race-neutral goal within the overall 30 percent SB goal, as described in the Small and Disadvantaged Business Enterprise Program (S/DBE Program) Plan; and
- 2) Authorize the California High-Speed Rail Authority (Authority) Chief Executive Officer (CEO) to submit the revised S/DBE Program to the Federal Railroad Administration (FRA) for its approval.

Pursuant to the Grant/Cooperative Agreements between the FRA and the Authority, the Authority is required to develop and implement a S/DBE Program to address how the Authority and its Design-Builders will ensure that small businesses, including DBEs, have an opportunity to bid on the rail contracts and participate in the project construction.

The Authority presented the draft S/DBE Program Plan to the Board on April 19, 2012. The Board approved the S/DBE Program with an amendment to include a 3 percent Disabled Veteran Business Enterprise (DVBE) goal within the overall 30 percent SB goal. The Authority presented the revised S/DBE Program with the three (3) percent DVBE goal language to the Board on May 2, 2012. The Board requested the Authority to research the possibility of including a 10 percent DBE goal within the 30 percent SB goal.

Title 49 Code of Federal Regulation Part 26 § 26.41 authorizes State DOT as recipients of the Federal Highway Administration, Federal Transit Administration and Federal Aviation Administration funding, that, except to the extent the United States Secretary of Transportation determines otherwise, not less than 10 percent of the authorized funds are to be expended with

DBEs. This 10 percent goal is an aspirational goal at the national level, which the Secretary of Transportation uses as a tool in evaluating and monitoring DBEs' opportunities to participate in DOT-assisted contracts.

Based on the information presented, the United States Secretary of Transportation recognize that a 10 percent DBE goal is an appropriate goal to make efforts for DBEs to participate in DOT-assisted contracts. As other federally assisted transportation programs have implemented the 10 percent DBE goal, it would be prudent and within reason for the Authority to believe that 49 CFR Part 26.41 will become applicable to passenger rail programs.

The Authority may adopt a 10 percent race-neutral DBE goal, within the 30 percent S/DBE goal. A race-neutral program is one that is, or can be, used to assist all small businesses, including DBEs.

Recommendations:

- 1) Approve the inclusion of a 10 percent DBE goal, within the overall 30 percent S/DBE goal as described in the Authority's S/DBE Program.

The inclusion of the 10 percent DBE goal into the S/DBE Program will read as:

"The S/DBE Program has incorporated the best practices of 49 CFR Part 26, Section 26.41 to include a 10 percent DBE goal, within the overall 30 percent S/DBE goal. The 10 percent DBE goal is wholly race-neutral."

- 2) Authorize the CEO to submit the revised S/DBE Program Plan to the FRA for approval.

Attachments:

- HSRA Resolution No. 12-21 Inclusion of a 10 percent race-neutral DBE goal within the 30 percent S/DBE overall goal